

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

DIANE OWENS, Individually and on Behalf
of All Others Similarly Situated,

Plaintiff,

v.

FIRSTENERGY CORP., CHARLES E.
JONES, JAMES F. PEARSON, STEVEN E.
STRAH and K. JON TAYLOR,

Defendants.

Case No. 2:20-cv-3785-ALM-KAJ

CLASS ACTION

Chief Judge Algenon L. Marbley
Magistrate Judge Kimberly A. Jolson

ORAL ARGUMENT REQUESTED

CHANA FRAND, Individually and on Behalf
of All Others Similarly Situated,

Plaintiff,

v.

FIRST ENERGY CORP., CHARLES E.
JONES, JAMES F. PEARSON, STEVEN E.
STRAH and K. JON TAYLOR,

Defendants.

Case No. 2:20-cv-4287-JLG-EPD

CLASS ACTION

Judge James L. Graham
Magistrate Judge Elizabeth Preston Deavers

**MOTION OF PROPOSED LEAD PLAINTIFF CALIFORNIA PUBLIC EMPLOYEES'
RETIREMENT SYSTEM FOR APPOINTMENT AS LEAD PLAINTIFF, APPROVAL
OF ITS SELECTION OF COUNSEL AND CONSOLIDATION OF RELATED ACTIONS**

Proposed Lead Plaintiff California Public Employees' Retirement System ("CalPERS") hereby moves this Court, pursuant to Section 21D(a)(3)(B) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. § 78u-4(a)(3)(B), as amended by the Private Securities Litigation Reform Act of 1995 (the "PSLRA"), for an order: (i) appointing CalPERS as Lead Plaintiff; (ii) approving its selection of Berman Tabacco as Lead Counsel and Karon LLC as Liaison

Counsel; and (iii) consolidating the above captioned cases (together, the “Related Actions”) (the “Motion”).

This Motion is made on the grounds that CalPERS believes it is the “most adequate plaintiff” under the PSLRA and should therefore be appointed Lead Plaintiff. Specifically, CalPERS believes it has the “largest financial interest” in the relief sought by the Class as detailed in the accompanying papers. CalPERS also otherwise satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure because its claims are typical of other Class members’ claims and because it will fairly and adequately represent the interests of the Class. Moreover, CalPERS is an ideal Lead Plaintiff under the PSLRA because it is a sophisticated institutional investor with a substantial financial stake in the litigation, which guarantees effective monitoring and supervision of counsel.

Moreover, CalPERS’s selection of Berman Tabacco, a law firm with significant experience in prosecuting securities fraud class actions, to serve as Lead Counsel, and Karon, LLC, an Ohio law firm with significant class action experience, to serve as Liaison Counsel, should be approved.

Finally, the Related Actions should be consolidated pursuant to Rule 42 of the Federal Rules of Civil Procedure because they involve common questions of law and fact. Specifically, both cases assert claims under the Exchange Act based on the same alleged wrongdoing, namely that the defendants issued materially false and misleading statements and omissions regarding its participation in an illegal misconduct concerning its legislative efforts to approve a bailout for its nuclear facilities which artificially inflated its securities and subsequently damaged the Class when the price of securities declined as the truth emerged.

ORAL ARGUMENT REQUESTED

CalPERS hereby respectfully requests oral argument on the instant motion. The instant matter involves the appointment of a Lead Plaintiff under the PSLRA which will have the responsibility of representing the interests of hundreds or thousands of absent Class members. CalPERS believes that oral argument would greatly assist the Court in assessing the competing qualifications of the Lead Plaintiff movants and adjudicating the motions that CalPERS anticipates will be filed in this case.

This Motion is supported by the accompanying Memorandum of Law, the Declaration of Nicole Lavalley and exhibits annexed thereto, the pleadings and other filings herein, and such other written or oral argument as may be permitted by the Court.

WHEREFORE, CalPERS respectfully request that the Court: (i) appoint it to serve as Lead Plaintiff; (ii) approve its selection of Berman Tabacco as Lead Counsel for the Class and Karon LLC as Liaison Counsel for the Class; and (iii) consolidate the Related Actions.

Dated: September 28, 2020

KARON LLC

s/ Daniel R. Karon
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Proposed Liaison Counsel for the Class

and

BERMAN TABACCO

Joseph J. Tabacco, Jr. (*pro hac vice* forthcoming)

Nicole Lavallee (*pro hac vice* forthcoming)
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*Counsel for Proposed Lead Plaintiff California
Public Employees' Retirement System and
Proposed Lead Counsel for the Class*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on September 28, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

s/ Daniel R. Karon

Daniel R. Karon